

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT G. SPENCER,

Plaintiff-Counter-Defendant-Appellee,

v

RICHARD L. BEUTER,

Defendant-Counter-Plaintiff-Appellant.

UNPUBLISHED

June 9, 1998

No. 202752

Presque Isle Circuit Court

LC No. 95-002042 CH

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Defendant appeals as of right from a judgment valuing and partitioning the assets of a joint venture following the termination of a business relationship between the parties. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court erred when it refused to calculate the monetary value of plaintiff's use of the lodge as a seasonal residence. Defendant presented no evidence of the value of plaintiff's use of the lodge as a seasonal residence. A trial court's findings of fact must be based on evidence in the record. See e.g., *Tuttle v Dep't of State Highways*, 397 Mich 44, 46; 243 NW2d 244 (1976); *Torakis v Torakis*, 194 Mich App 201, 203-204; 486 NW2d 107 (1992). Courts may not resolve issues based on idle speculation. See e.g., *Advisory Opinion on Constitutionality of 1975 PA 227*, 396 Mich 123, 132; 240 NW2d 193 (1976). In light of defendant's failure to present evidence on the value of this use of the lodge, the trial court cannot be said to have erred in failing to assign a value to the use.

Defendant also argues that the trial court erred when it calculated the value of the use of the lodge as a bed and breakfast. Defendant asserts that the court should have determined the value of the bed and breakfast use by looking to the "rental value" of the lodge, rather than to the profits earned by the business. Defendant has failed to provide any citation to authority to support his conclusion that the court relied on an erroneous method of valuation and, therefore, has abandoned his claimed error on appeal. *Mitcham v City of Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). In any event, as a general proposition, the value of an ongoing business concern is determined by subtracting the business'

liabilities from the business' assets. *Kowalesky v Kowalesky*, 148 Mich App 151, 157; 384 NW2d 112 (1986). Moreover, expert testimony established that the method of valuation advocated by defendant could not be used to assign value to the use of the lodge. Because the court employed the general method of valuing an ongoing business use, because the evidence adduced at the hearing supported the value assigned to the use by the court and because defendant has failed to provide authority or evidence establishing that a different method of valuing the use was more appropriate than the method employed by the court, we reject defendant's challenge to the valuation of the bed and breakfast use.

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage